

## Message Text

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TO AMEMBASSY LONDON PRIORITY

INFO USMISSION USUN NEW YORK

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LIMDIS

E.O. 11652 N/A

TAGS: PBOR

SUBJ: LOS: UK STRAITS ARTICLES

1. THIS CABLE RESPONDS TO OUR COMMITMENT TO HMG TO SUBMIT COMMENTS ON ITS DRAFT INNOCENT PASSAGE AND STRAITS ARTICLES BY FEBRUARY 21. EMBASSY IS REQUESTED TO DELIVER COMMENTS AS SOON AS POSSIBLE AND TO REITERATE OUR APPRECIATION TO HMG FOR DELAYING FURTHER ACTION ON THE ARTICLES PENDING RECEIPT OF THESE COMMENTS.

2. IN VIEW HMG DESIRE TO MAINTAIN BASIC STRUCTURE OF ITS ARTICLES, WE HAVE SUGGESTED AMENDMENTS COMPATIBLE WITH THAT STRUCTURE. FOR EASE OF REFERENCE, WE HAVE DONE THIS IN THE FORM OF A COMPLETE SET OF ARTICLES. IN DELIVERING ARTICLES TO HMG, EMBASSY IS REQUESTED TO NOTE THAT THESE ARE NOT, RE-SECRET

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PEAT NOT, SUGGESTED US ARTICLES, AND THAT WE HAVE NOT MADE

A FORMAL GOVERNMENT DECISION ON WHETHER WE COULD SUPPORT THESE ARTICLES.

3. NEVERTHELESS, WE WOULD STILL STRONGLY URGE HMG TO WITHHOLD INTRODUCTION OF ARTICLES PENDING AN URGENT GROUP OF 5 MEETING ON STRAITS WHICH COULD HOPEFULLY ARRIVE AT A COMMON POSITION ON SUBSTANCE AND TACTICS. IF HMG IS NOT WILLING TO DO SO, OUR PROPOSAL STANDS FOR A GROUP OF 5 MEETING AS SOON AS POSSIBLE ON THE ISSUE FOR THE PURPOSE OF COMING UP WITH A COMMONLY ACCEPTABLE POSITION THAT COULD ALSO BE

SUPPORTED BY OTHER STATES. MOREOVER, IF HMG IS NOT WILLING TO WITHHOLD ACTION PENDING GROUP OF 5 MEETING, IT MAY WISH TO CONSIDER PRIVATE CIRCULATION OF ARTICLES RATHER THAN FORMAL INTRODUCTION.

4. WE REMAIN CONCERNED ABOUT THE IMPLICATIONS OF GETTING INTO A DETAILED NEGOTIATION ON INNOCENT PASSAGE BOTH IN TERMS OF SUBSTANCE AND IN TERMS OF THE TIME SUCH A NEGOTIATION MAY TAKE. HOWEVER, THE AMENDMENTS HAVE THE EFFECT OF ELIMINATING THE MAJOR SUBSTANTIVE ASPECTS OF OUR CONCERN ON THE INNOCENT PASSAGE QUESTION PARTICULARLY BY ELIMINATING THE DIRECT LINK BETWEEN INNOCENT PASSAGE ARTICLES AND TRANSIT PASSAGE ARTICLES.

5. SUBJECT TO THE FOREGOING, WE BELIEVE THAT OUR SUGGESTED CHANGES ELIMINATE MANY OF THE MAJOR SUBSTANTIVE PROBLEMS WE HAVE WITH THE UK DRAFT, WHILE ACCOMMODATING THE MAJOR SUBSTANTIVE OBJECTIVES OF THAT DRAFT, AND WE WOULD STRONGLY URGE THAT HMG GIVE THEM ITS MOST SERIOUS CONSIDERATION. IN PARTICULAR, WE WOULD PLACE STRONG EMPHASIS ON TREATING STRAITS IN A SEPARATE CHAPTER AS A SEPARATE CONCEPTUAL PROBLEM. MOST OF THE CHANGES MADE ARE DERIVED FROM MATTERS DISCUSSED IN LONDON. WE WOULD PARTICULARLY NOTE THAT WE BELIEVE THE ARTICLES FULLY PROTECT ENVIRONMENTAL NEEDS OF A COASTAL STATE.

6. SHOULD HMG CONSIDER IT DESIRABLE, WE ARE PREPARED TO DISCUSS THE SUGGESTED CHANGES ON AN URGENT BASIS IN LONDON, NEW YORK OR WASHINGTON.

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7. WE TRUST THAT HMG WILL GIVE US ITS REACTIONS TO THESE COMMENTS AND KEEP US INFORMED OF ANY ACTIONS IT PLANS TO TAKE CONCERNING TERRITORIAL SEA AND STRAITS ARTICLES.

8. TEXT OF ARTICLES FOLLOWS:

DRAFT CONVENTION ON THE LAW OF THE SEA

THE STATES PARTIES TO THIS CONVENTION, DESIRING TO DEVELOP  
THE LAW OF THE SEA TO MEET PRESENT AND FUTURE NEEDS OF THE  
WORLD COMMUNITY; HAVE AGREED AS FOLLOWS:

## CHAPTER ONE

### TERRITORIAL SEA

#### PART I - GENERAL

##### ARTICLE 1

1. THE SOVEREIGNTY OF A COASTAL STATE EXTENDS, BEYOND ITS  
LAND TERRITORY AND ITS INTERNAL WATERS, TO A BELT OF SEA  
ADJACENT TO ITS COAST, DESCRIBED AS THE TERRITORIAL SEA.

2. THE SOVEREIGNTY OF A COASTAL STATE EXTENDS ALSO TO THE  
AIR SPACE OVER THE TERRITORIAL SEA AS WELL AS TO THE BED  
AND SUBSOIL THEREOF.

3. THE COASTAL STATE EXERCISES THIS SOVEREIGNTY SUBJECT  
TO THE PROVISIONS OF THESE ARTICLES AND TO OTHER RULES OF  
INTERNATIONAL LAW.

#### PART II - LIMITS

##### ARTICLE 2

THE TERRITORIAL SEA MAY NOT EXTEND BEYOND TWELVE MILES  
FROM THE BASELINE FROM WHICH THE BREADTH OF THE TERRITORIAL  
SEA IS MEASURED.

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##### ARTICLE 3

EXCEPT AS OTHERWISE PROVIDED IN THIS CONVENTION, BASELINES  
FOR MEASURING THE BREADTH OF THE TERRITORIAL SEA SHALL BE  
ESTABLISHED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLES  
3-13 OF THE 1958 CONVENTION ON THE TERRITORIAL SEA AND THE  
CONTIGUOUS ZONE.

#### PART III - INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA

##### SECTION I. RULES APPLICABLE TO ALL SHIPS

##### ARTICLE 4

SUBJECT TO THE PROVISIONS OF THIS CONVENTION, SHIPS OF ALL

STATES, WHETHER COASTAL OR NOT, SHALL ENJOY THE RIGHT OF INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA EXCEPT THAT THE PROVISIONS OF CHAPTER TWO APPLY TO PASSAGE THROUGH STRAITS USED FOR INTERNATIONAL NAVIGATION.

ARTICLE 5

1. PASSAGE MEANS NAVIGATION THROUGH THE TERRITORIAL SEA FOR THE PURPOSE EITHER OF TRAVERSING THAT SEA WITHOUT ENTERING INTERNAL WATERS, OR OF PROCEEDING TO OR FROM INTERNAL WATERS.

2. PASSAGE INCLUDES STOPPING AND ANCHORING, BUT ONLY IN-SO FAR AS THE SAME ARE INCIDENTAL TO ORDINARY NAVIGATION OR ARE RENDERED NECESSA

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